

Jesus Velasquez
SBI #: 494015B
C/O Jones Farm Prison Unit
P.O. Box 7100
West Trenton, New Jersey 08628

July 16, 2008

JUL 21 2008

Honorable Katherine S. Hayden, U.S.D.J.
Frank R. Lautenberg U.S. Post Office &
Courthouse, Room 411
Federal Square
Post Office Box 999
Newark, New Jersey 07101-0999

Re. Velasquez v. Essex County Prosecutors Office et al.
U.S. District Court Docket # 08-0053
Katherine S. Hayden, U.S.D.J

Dear Judge Hayden:

I am the Plaintiff, pro-se in this matter and am presently incarcerated at the Jones Farm Prison Unit, West Trenton, New Jersey. In that regard, I am in receipt of Motions to Dismiss my Amended Complaint For Failure to State a Claim Upon Which Relief Can Be Granted Pursuant to Fed. R. Civ. P. 12(b) (6) filed on behalf of both the Defendant New Jersey Department of Corrections and the Defendant Essex County Prosecutors Office

Please accept this letter brief in lieu of a more formal brief in opposition to both motions.

Please recall that I am indigent and awaiting a decision on my application for appointment of pro-bono counsel. While there is a law library at Jones Farm it does not have the legal resources or materials necessary to research the legal issues raised in the motions.

Hence, I cannot research the issue of whether the Defendants are entitled to Eleventh Amendment immunity as entities of the State or whether they are "persons" pursuant to 42 U.S.C. Sec. 1983 or any of the other issues raised in the motions. Even if materials

were available I have neither the education, training, expertise nor ability to research these issues. Please give me the opportunity to discuss my case with assigned counsel prior to ruling on the motions.

Defendant N.J.D.O.C. states that "...nothing precluded plaintiff from bringing this matter in State court pursuant to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq." Since I am a lay person I had no knowledge of this law. Perhaps if counsel is appointed they could advise me of my legal options in this regard. Until so I do not understand the consequences of being in Federal versus State Court. Moreover, is Defendant suggesting that they will agree to being sued in State court should this Court transfer it there?

Defendant N.J.D.O.C. further maintains that my only claim against the Department is by my reference to the "State ID team" and that no other allegations are made against the N.J.D.O.C. Defendant also contends that I failed to allege that the State Defendants personally directed or had actual knowledge of my civil rights violations.

With respect to these contentions I remind the court that I was wrongfully incarcerated between approximately October 11, 2007 and December 6, 2007. Had I not been, I would not have been released by the Superior Court on December 2, 2007. Certainly my civil rights have been violated by such a wrongful incarceration including my 5th Amendment rights to Due Process. Once I am permitted to engage in discovery I will be able to ascertain the names of the individuals involved in my wrongful prosecution and incarceration.

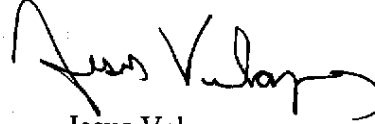
I further remind the Court that it dismissed my complaint without prejudice by Order of March 28, 2008. Therein, it allowed me to file an Amended Complaint to name the individuals who I claim engaged in the actions alleged in the Complaint. Attempting to remedy this problem I named John Doe defendants in my amended complaint. I am not trained to plead as an attorney would. I have no expertise in this regard. I did as best I could with the resources available.

I believe my claims have merit and that I should be permitted to pursue those claims against the parties responsible. My understanding is that the Federal Rules require only "a short and plain statement of the claim showing that the pleader is entitled to relief, in order to give the defendant fair notice of what the... claim is and grounds upon which it rests." Moreover, "the plaintiff must set forth facts, either by specific allegations or by inference, that outline the elements of his claim" It is submitted that I have made such showings.

Moreover, it is respectfully submitted that I should be permitted to engage in discovery to ascertain the names of those individuals employed by both the N.J.D.O.C. and the Prosecutors office whom engaged in the alleged wronging which I remind the court includes double jeopardy, malicious prosecution and false imprisonment

Finally, Defendant Prosecutor contends that "Even if Plaintiff were provided counsel, plaintiff is unable to overcome the procedural arguments requiring dismissal of his amended Complaint." It is respectfully submitted that without the benefit of appointed counsel that I should not be procedurally blocked at this time from pursuing this matter and engaging in discovery. To do so, would result in a travesty of justice.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Jesus Velasquez", written in a cursive style.

Jesus Velasquez

C.

William T. Walsh, Clerk
United States District Court for the
District of New Jersey-Vicinage of New Jersey
M.L. King, Jr. Federal Building
& U.S. Court House
50 Walnut Street
Newark, N.J. 07102

Harry J. Del Plato, Essex County Counsel
Essex County Counsel's Office
Hall of Records, Room 535
Newark, N.J.07102

The Honorable Patty Schwartz, U.S.M.J.
Frank R. Lautenberg U.S.Post Office
and Courthouse, Room 477
Federal Square,
P.O. Box 999
Newark, New Jersey 07101-0999

Michael H. Freeman Esq.
Greenberg Dauber Epstein & Tucker
Suite 600
One Gateway Center
Newark, N.J. 07103-5311

Ellen M. Hale
Deputy Attorney General
25 Market Street
P.O. Box 112
Trenton, N.J. 08625-0112.

Jesus Velasquez
SBI # 4940158
C/O Jones Farm Prison Unit
P.O. Box 7100
West Trenton, N.J. 08628

RECEIVED

JUL 21 2008



AT 8:30
WILLIAM T. WALSH, CLERK

The Honorable Patty Schwartz, U.S.M.J.
Frank R. Lautenberg U.S. Post Office
and Courthouse, Room 477
Federal Square,
P.O. Box 999
Newark, New Jersey 07101-0999

0710160999 8008

